

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DOMENICO DE SOLE and ELEANORE DE SOLE,
individually and as assignees of LAURA DE SOLE,

Plaintiffs,

v.

KNOEDLER GALLERY, LLC D/B/A KNOEDLER
& COMPANY, ANN FREEDMAN, GLAFIRA
ROSALES, JOSE CARLOS BERGANTINOS DIAZ,
MICHAEL HAMMER, 8-31 HOLDINGS, INC., and
JAIME ANDRADE,

Defendants.

No. 12 Civ. 2313 (PGG)

JOINT PROPOSED VOIR DIRE QUESTIONS

JUROR NUMBER _____

PLEASE PRINT ALL ANSWERS LEGIBLY IN BLUE OR BLACK INK.

Introduction

The purpose of this questionnaire is to provide information to the Court and to the attorneys in this case – both the plaintiffs’ and the defendants’ attorneys – so that they can determine whether you can serve as a fair and impartial juror in this case. You must give true, candid and complete answers to every question.

This is a civil law case which involves the purchase and sale of forged artworks. Briefly summarized, the plaintiffs have alleged that the defendants Ann Freedman and Knoedler Gallery LLP sold dozens of forged artworks with knowledge that they were not authentic, recklessly disregarded information that indicated that the works were not authentic, made misrepresentations about those artworks to sell them as authentic, and/or purposefully concealed information indicating the artworks’ inauthenticity from these plaintiffs who purchased two of the artworks. The defendants have denied these allegations and have claimed that they believed that the works were authentic. Plaintiffs seek millions of dollars in damages from defendants Freedman, Knoedler Gallery, and 8-31 Holdings, Inc., the owner of Knoedler.

Do not discuss this questionnaire or your answers with anyone, including Court personnel

and your fellow potential jurors. Please do not leave any questions unanswered. If you do not understand a question, write that on the questionnaire, and we will discuss it with you later.

Please write your juror number on the top of each page of the questionnaire. Do not write your name on the document. There is an extra page at the back of the questionnaire if you need additional space for your answers. Do not write on the back of any page of the questionnaire. There are no “right” or “wrong” answers; there are only truthful answers. You are sworn to give truthful answers, so you must provide full and accurate information in response to each question.

NOTE: Do not do any research regarding this case. That means you should not “look up” the case or any of the names mentioned in the questionnaire on the internet or in any other manner. Do not discuss this case, this questionnaire or your answers to these questions with anyone – not your fellow jurors, your family, your employer or your friends.

For Written Questionnaire¹

1. The trial of this case is expected to last up to four weeks. The jury will generally sit Mondays through Thursdays from approximately 9:30 a.m. to 5:30 p.m.

All jury service involves some degree of hardship. Would service as a juror in this case be a serious hardship for you? ____ Yes ____ No

If yes: Please explain why service on the jury would be a serious hardship on you:

Do you have any difficulty understanding or reading English that might make it difficult for you to serve as a juror in this case? ____ Yes ____ No

If yes: Please explain: _____

2. Do you or any member of your family personally know:

A. The plaintiffs in this case, Domenico and Eleanore De Sole, or members of their family?

☐ Yes ☐ No

If yes, whom do you know?

B. The plaintiff in this case, John Howard, or members of his family?

¹ To the extent the Court does not intend to provide prospective jurors with a written questionnaire, these questions could be asked orally, as appropriate.

☐ Yes ☐ No

If yes, whom do you know?

C. One of the defendants in this case, Ann Freedman, or members of her family?

☐ Yes ☐ No

If yes, whom do you know?

D. Any person associated with defendants Knoedler Gallery or 8-31 Holdings, Inc.?

☐ Yes ☐ No

If yes, whom do you know?

D. Michael Hammer or members of his family?

☐ Yes ☐ No

If yes, whom do you know?

E. Any of the attorneys in this case?

☐ Yes ☐ No

If yes, whom do you know?

F. The United States District Judge who is presiding over the case, Paul G. Gardephe, or any member of his family?

☐ Yes ☐ No

If yes, whom do you know?

G. Any of the witnesses that may be called in this case? [List the witnesses]

☐ Yes ☐ No

If yes, whom do you know?

If you answered YES to any of the questions above, please explain how you know the individual(s) _____

3. Have you heard, read or seen anything about the plaintiffs (Domenico and Eleanore De Sole or John Howard) or the defendants (The Knoedler Gallery, 8-31 Holdings, Inc., and Anne Freedman) or about this case? ☐ Yes ☐ No

If yes: What have you heard, read or seen and from what source?

4. Based upon anything you have heard, read or seen about this case or any of the parties involved, have you formed any opinion about any party to the case or any part of the case that might make it difficult for you to be a fair and impartial juror in this case? ☐ Yes ☐ No

If yes: Please explain: _____

Based upon anything you have heard, read or seen about this case of any of the parties involved, would you be able to follow the Court's instruction to set that aside and decide this case based solely on evidence presented at trial? ☐ Yes ☐ No

5. Is there anything about the subject matter of this case that would make it difficult for you to serve as a fair and impartial juror in this case? ☐ Yes ☐ No

If yes: Please explain: _____

6. Would you have any difficulty either making a monetary award of damages—even for large sums of money—if you found the plaintiffs were entitled to recover it? ☐ Yes ☐ No

If yes: Please explain: _____

7. Are you familiar with Abstract Expressionist art? ☐ Yes ☐ No

If yes: Please explain: _____

8. You may hear that some of the people involved in this case are quite wealthy. Do you have any feelings about wealthy individuals that would make it difficult for you to serve as a fair and impartial juror in this case? ☐ Yes ☐ No

If yes: Please explain: _____

9. Do you or any member of your family or any close friend work in an art gallery or museum? ☐ Yes ☐ No

If yes: Please explain: _____

10. If selected for this case, you will be instructed not to read, listen to or watch accounts of this case in the media, or to search the Internet for information about the subject matter of this trial. Will you have any difficulty following this instruction? ☐ Yes ☐ No

If yes: Please explain: _____

11. Have you ever served as a plaintiff, defendant, witness or juror in either a civil lawsuit or a criminal case? ☐ Yes ☐ No

If yes: Please explain: _____

If yes: Was there anything about that experience that would make it difficult for you to serve as a fair and impartial juror in this case? ☐ Yes ☐ No

If yes: Please explain: _____

12. Do you have any personal knowledge of the facts that are alleged in this case?
☐ Yes ☐ No

If yes: Please explain: _____

Please note: In the event you are excused from service on this jury, you will not be excused from jury service in general. You will instead be required to report to the Court's Jury Clerk for placement on another panel for another case.

I swear (or affirm) that all of the answers provided above are truthful.

For Oral Voir Dire

Plaintiffs' Questions²

Background Information

1. What is your county/neighborhood of residence?
2. Please describe your educational background, including highest degree received?
3. Please describe your employment history since graduating from high school or within the last 10 years, whichever is shorter, including the name of your employer and job title and responsibilities?
4. What are your job responsibilities in your current job? If you've held this job for less than five years, what were your responsibilities in the job you held just prior to your current job?
5. Do you have a partner or spouse? If so, are they employed and what do they do?
6. Do you have grown children? If so, are they employed and what do they do?
7. Have you ever had a lawsuit brought against you or filed a lawsuit against another? Describe the lawsuit and the outcome. Were you satisfied with the outcome? Do you have any feelings about lawsuits in general as a result of that experience and if so, what are they?
8. How do you like to spend your leisure time? For example, do you have hobbies or are there organizations that you're involved in, or other things you like to do in your free time?
9. What is the most important source of news for you: newspapers, radio, friends and family, TV, magazines or the internet? What newspapers, magazines or websites do you like to read or visit?
10. What TV programs do you watch on a regular basis? What radio programs or podcasts do you like to listen to?
11. What were the last three books you read? When did you read them?
12. Do you or does anyone close to you collect anything? What do you/they collect?

² Plaintiffs object to each of Defendants' Questions, below.

13. Beyond collections, do you tend to keep “keepsakes” or other items that have special meaning to you because of who gave them to you or where they’re from?
14. Have you ever had a problem after making a major purchase? If you have, please tell us about it and how it was resolved, and whether you were satisfied with the resolution.

Involvement With Art/The Art Industry

15. Do you ever go to museums or art galleries? What kind of museums or galleries do you like?
16. Do you or any member of your family or anyone else close to you work in the art field, or have you or they ever done so in the past? If yes, please explain.
17. Have you ever taken any art or art history courses?
18. Have you ever had any business dealings or experience with an art gallery, including buying artwork? If yes, please explain.
19. Have you or any member of your family or anyone else close to you ever been trained or involved in any field of art? If so, please identify the person involved and describe their training and involvement.
20. Have you ever studied art or art history, either in school or on your own? If so, please describe what you studied, where and why.

Legal Training

21. Are you or were you ever a practicing attorney? What is or was your practice area?
22. Have you had legal training or education? Please describe that training or education.

Past Jury Experience

23. Have you ever served as a juror before? Were you the foreperson? Please describe the nature of the case and your feelings about serving as a juror in that case.
24. Do you know or have you previously met any other members of the jury panel? Please identify them and your relationship.
25. Are there any issues that you would prefer to discuss in private?

Defendants' Questions

Defendants join all of Plaintiffs' Proposed Oral Voir Dire Questions with the exception of Question 14.

In addition, Defendants propose the following questions:

1. How many different residences have you had in the past ten years? How many of those were rented and how many did you own?
2. How do you like your current job? What do you like or not like about it?
3. Have you been laid off from a job within the last five years? How did you feel about the layoff?
4. This case involves the sale of works of art that turned out to be forgeries.
 - a. Have you ever sold an expensive work of art, antique, or other collectible item?
 - b. What was it?
 - c. Where, when and for how much did you sell it?
 - d. Did any of these items turn out to be inauthentic?
 - e. Did you get blamed for this event?
 - f. What was the outcome of that experience?
5. Have you ever said something that you believed to be true when you said it, but it turned out later to be inaccurate?
 - a. When was that?
 - b. Did you get blamed for making the statement?
 - c. What was the outcome of that experience?
 - d. Do you think that people should be punished for making inaccurate statements, even if they believed the statements to be accurate when they made them?
6. Have you ever had a lawsuit brought against you or filed a lawsuit against another? Describe the lawsuit and outcome. Were you satisfied with the outcome? How did that lawsuit make you feel about lawsuits in general?
7. Where do you generally shop for clothes? What about your spouse?

- a. Do you have favorite fashion designers? If so, which ones?
 - b. Do you shop more often at outlet stores or boutique shops? What about your spouse?
8. What is the most money you ever spent on jewelry that you were buying for another person?
 - a. What type of jewelry was it?
 - b. Where did you buy it?
 - c. Did you comparison shop when deciding what to buy? If so, how did you undertake the comparison?
 - d. What things did you do before deciding to buy the jewelry?
 - e. Did you work with a consultant to help you with your decision or your jewelry purchase? If so, what responsibilities did you believe they had?
9. Have you ever worked with a stock broker? If so:
 - a. Why did you use a broker?
 - b. What did you think his/her job was, and did you think s/he did it properly?
 - c. Have you ever lost money on investments that a broker recommended to you? Do you believe your loss was the broker's fault?
 - d. Did you ever investigate recommendations that your broker made to you? Why?
10. Do you have a retirement account? If so:
 - a. Do you pick the investments in the account?
 - b. Did the account lose value during the credit crisis? Whose fault was the loss in value?
11. Do you or have you ever supervised anyone at your place(s) of employment? If so, how many people are under your supervision and what are the job responsibilities of those employees? Do you have the authority to hire and fire employees?
12. Have you or any one close to you ever been employed by a law firm, police department, the military, or other law enforcement agency? If so, please describe the person involved, years of employment, the employer, and the nature of the job.

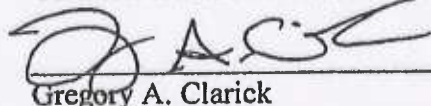
13. What were your personal goals in high school? Have you accomplished those goals? Why do you think you accomplished (or did not accomplish) those goals?
14. If you were a defendant in this case, would you want yourself as a juror?
15. Is there any additional information that came to mind which may have some bearing on your service as a juror in this case? Is there anything else we have not touched on in our questions that you think the Court or the attorneys should know about you or your opinions in selecting a jury for this case?
16. Do you believe people have a responsibility to ask questions before making decisions that may lead to spending a large sum of money? What kinds of questions?
17. There may be some conflict in the testimony of the witnesses. As a juror it will be your job to determine who you think is telling the truth. We have all had the experience of trying to decide who is telling the truth at some point in our lives, and some people find they are very uncomfortable in those situations. Does that apply to any of you? Are any of you uncomfortable about accepting the responsibility to determine who is telling the truth?
18. This case will involve facts and events from as much as twenty years ago. You may hear testimony in this case from witnesses who do not recall all of the facts from those many years ago. Do you believe that generally a person who cannot recall all of the details of events from years ago is not being truthful?
19. You will hear evidence in this case of what one party believes another party was thinking. Do you have any views on how someone should try to determine what another person is thinking or was thinking in the past? What are they?
20. Some people have a religious belief that discourages them or actually does not permit them to pass judgment on others. Do any of you have that religious belief? Do any of you have any philosophical views or personal opinions about making judgments of others that would make it difficult for you to serve as a juror in this case?
21. Do you have any views as to whether a person or company which makes a sale to another person should be required to return the purchase price many years later if the purchaser believes it did not get what it thought it paid for even if the seller did nothing at all wrong? What are those views?
22. You will hear evidence presented against two defendant companies, one of which is the owner of the other company. The owner is often called a parent company and the company the parent company owns is often called a subsidiary. You may be asked to determine if the corporate parent is liable for the acts of the subsidiary company that is

accused of committing wrongful acts. Do you have a view about whether the corporate parent should be automatically liable if the subsidiary company committed a wrongful act based on the parent company owning the subsidiary company? What is that view?

23. You will hear evidence that one company, called a subsidiary, owned by another company, called a parent, made distributions of cash from the subsidiary to the parent. Do you have a view about whether the corporate parent should be automatically liable if the subsidiary company committed a wrongful act based on the corporate parent receiving distributions from the corporate subsidiary? What is that view?
24. You will hear evidence that one company called a parent that owned another company called a subsidiary issued paychecks and W-2 forms for the employees of both companies. Do you have a view about whether the employees are all employees of the parent company based on the corporate parent issuing the paychecks and W-2 forms for the employees of both companies? What is that view? Do you have a view about whether the corporate parent should be automatically liable if the subsidiary company committed a wrongful act based on the corporate parent issuing the paychecks and W-2 forms for the employees of both companies? What is that view?

Dated: New York, New York
November 24, 2015

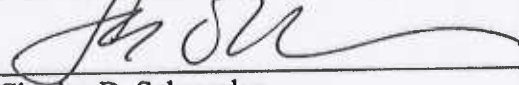
CLARICK GUERON REISBAUM LLP



Gregory A. Clarick
Emily Reisbaum
Aaron H. Crowell
Sarah Louise Bishop
Courtney L. Milianes
220 Fifth Avenue, 14th Floor
New York, NY 10001
Phone: (212) 633-4310
Fax: (646) 478-9484

*Attorneys for Plaintiffs Domenico and
Eleanore De Sole*

NORTON ROSE FULBRIGHT US LLP



Charles D. Schmerler
Mark A. Robertson
Sarah E. O'Connell
666 Fifth Avenue
New York, NY 10103
Tel.: 212.318.3000
Fax: 212.318.3400

*Attorneys for Defendants Knoedler Gallery
LLC and 8-31 Holdings, Inc.*

BOIES, SCHILLER & FLEXNER LLP



Luke Nikas
575 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-2300
Facsimile: (212) 446-2350
Email: lnikas@bsfllp.com

Kyle Smith* (*pro hac vice*)
5301 Wisconsin Ave NW
Washington, DC 20015
Telephone: (202) 237-2727
Facsimile: (202) 237-6131
Email: ksmith@bsfllp.com
*Admitted in New York only. Practice
supervised by members of the firm.

Attorneys for Ann Freedman